



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

STANTON NG & MEI YAN NG, AS CO-  
TRUSTEES OF THE NG FAMILY TRUST, )

Plaintiff, )

vs. )

MARTIN RODARTE & RACHEL  
RODARTE, DOE 1 through DOE III,  
inclusive, )

Defendants. )

CASE NO. CV 15-00962-FMO  
(MANx)

ORDER SUMMARILY REMANDING  
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily, because it was removed improperly.

On February 10, 2015, Renata Castro ("Castro") filed a Notice of Removal of an unlawful detainer action commenced by a complaint filed against Martin Rodarte and Rachel Rodarte on December 8, 2014 (the "Complaint"), in Los Angeles Superior Court Case No. 14U15721. Castro also presented an application to proceed *in forma pauperis*. The Complaint alleges what appears to be a routine state law unlawful detainer claim against the Rodartes (the "Unlawful Detainer Action"). The Court has denied the *in forma pauperis* application under separate cover, because the Unlawful Detainer Action was not

1 properly removed. To prevent the Unlawful Detainer Action from remaining in  
2 jurisdictional limbo, the Court issues this Order to remand the action to state court.

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4 Castro alleges that the Complaint is removable, because this Court has original  
5 jurisdiction over the Unlawful Detainer Action pursuant to 28 U.S.C. § 1331. Castro  
6 asserts that federal question jurisdiction exists, because plaintiffs have violated the Fair  
7 Housing Act and 42 U.S.C. § 3604(f)(3) by: refusing to permit reasonable modification  
8 of the premises to accommodate Castro's disabled roommate; and not bringing the  
9 premises into compliance with requirements for disabled tenants. To remove a case based  
10 upon federal question jurisdiction, however, the federal issue or claim must arise in the  
11 underlying complaint which the defendant seeks to remove. Merrell Dow Pharmaceuticals,  
12 Inc. v. Thompson, 478 U.S. 804, 808, 106 S. Ct. 3229 (1986) ("the question whether a  
13 claim 'arises under' federal law must be determined by reference to the 'well-pleaded  
14 complaint,' and "the question for removal jurisdiction must" be determined based upon the  
15 complaint's allegations). "A defense that raises a federal question is inadequate to confer  
16 federal jurisdiction." *Id.* Even if Castro could establish that plaintiffs violated federal law  
17 in connection with the rental property that is the subject of the Unlawful Detainer Action,  
18 this would be a defense or cross-claim in the state action and/or provide the basis for a  
19 separate lawsuit. Castro's allegations do not confer federal question jurisdiction over the  
20 Unlawful Detainer Action.

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22 Castro does not contend that diversity jurisdiction exists. The Complaint shows that  
23 the amount in controversy does not exceed the diversity jurisdiction threshold of \$75,000.  
24 Indeed, the Complaint expressly alleges that the amount demanded "does not exceed  
25 \$10,000." Thus, diversity jurisdiction is lacking. *See* 28 U.S.C. § 1332(a).

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27 The Complaint does not allege any basis for federal subject-matter jurisdiction, and  
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1 thus, there is no basis for concluding that the Unlawful Detainer Action could have been  
2 brought in federal court in the first place. Therefore, removal was improper. 28 U.S.C.  
3 § 1441; *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S.Ct. 2611  
4 (2005).

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6 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the Superior  
7 Court of California, Los Angeles County, Stanley Mosk Courthouse, 110 North Grand  
8 Avenue, Los Angeles, California 90012-3014, for lack of subject matter jurisdiction  
9 pursuant to 28 U.S.C. § 1447(c); (2) the Clerk shall send a certified copy of this Order to  
10 the state court; and (3) the Clerk shall serve copies of this Order on the parties.

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12 IT IS SO ORDERED.

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14 DATED: February 13, 2015

15  
16 /s/  
17 FERNANDO M. OLGUIN  
18 UNITED STATES DISTRICT JUDGE  
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